

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

|                        |             |                     |
|------------------------|-------------|---------------------|
| DEBRA MCCARTHY,        | :           |                     |
| DEVIN MCCARTHY, and    | :           | CIVIL ACTION        |
| OLUWATOMISIN OLASIMBO, | :           |                     |
| Plaintiffs,            | :           | JURY TRIAL DEMANDED |
| - against -            | :           |                     |
|                        | :           |                     |
| RAUL JAUREGUI and      | :           |                     |
| DANIEL BOYE,           | Defendants. | NO. 3:21-cv-1759    |
|                        | :           |                     |

**OBJECTIONS OF DEFENDANT RAUL JAUREGUI  
TO REPORT AND RECOMMENDATION OF UNITED STATES  
MAGISTRATE JUDGE MARTIN C. CARLSON DATED JUNE 2, 2023**

Raul Jauregui, by his attorneys, Dugan, Brinkmann, Maginnis and Pace, objects to the Report and Recommendation of United States Magistrate Judge Martin C. Carlson dated June 2, 2023 as follows:

1. Count II of Plaintiffs' amended complaint asserts a claim of abuse of process on behalf of both Ms. Devin McCarthy and Mrs. Debra McCarthy on the basis of Mr. Boye's legal action against Mrs. McCarthy only in the Luzerne County Court of Common Pleas.
2. In connection with count II of the amended complaint, there is no allegation that any legal process in the Luzerne County action was directed to Ms. McCarthy.
3. Accordingly, Defendant Jauregui asserts that count II of the amended complaint should be dismissed as to Ms. McCarthy's allegation of abuse of process since there was no process directed to Ms. McCarthy.
4. The Title IX Counterclaims were not legal process and counts III and IV therefore fail to state claims for abuse of process.

5. Defendant Jauregui submits that Magistrate Carlson made a legal mistake with respect to the issue of whether Title IX constitutes “legal process.” As a result, Defendant Jauregui submits that count III and count IV of the amended complaint be dismissed as to him.

6. Count V of the amended complaint does not state a claim for intentional infliction of emotional distress as to Defendant Jauregui.

7. To subject any counsel to a claim for intentional infliction of emotional distress for stating his client’s position is not what the tort of intentional infliction of emotional distress envisions.

WHEREFORE, Defendant Jauregui requests that this Honorable Court dismiss Devin McCarthy’s allegation of abuse of process in count II, that counts III and IV be dismissed because Title IX does not constitute legal process and count V for the intentional infliction of emotional distress against Defendant Jauregui should also be dismissed.

*/s/Eugene J. Maginnis, Jr.*  
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Date: June 14, 2023

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**CERTIFICATE OF SERVICE**

I, Eugene J. Maginnis Jr., Esquire, do hereby certify that a copy of the foregoing Objections to Report and Recommendation of United States Magistrate Judge Martin C. Carlson dated June 2, 2023 was served upon all counsel of record and individuals named below by electronic mail on this 14<sup>th</sup> day of June, 2023 as follows:

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United States Magistrate Judge Martin C. Carlson  
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*/s/Eugene J. Maginnis, Jr.*

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